



City of Rockville

MEMORANDUM

October 14, 2010

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment Application
TXT2010-00228, William A. Pumphrey, applicant

At its meeting on September 29, 2010 the Planning Commission reviewed and discussed Text Amendment Application TXT2010-00228. The Commission received a presentation from Planning and Zoning Division staff, which recommended denial of the proposed text amendment. The Planning Commission also received a presentation from the applicant and heard testimony from three citizens who support the application and two citizens opposed to the application.

After considerable discussion, the Planning Commission voted to recommend denial of the proposed text amendment for the reasons set forth in the staff report. The majority of the Commission agrees that the intent of a nonconforming use is that it should ultimately cease and be replaced by a use consistent with the provisions of the zone. There was also a concern that allowing this proposal would set a precedence to expand other non-conforming uses in general. Allowing for the expansion of parking in connection with this nonconforming funeral home would effectively maintain this use for the foreseeable future. Further, even if this use does cease at some point, the presence of a large parking lot and replatting as a single large lot would almost certainly mean that some other institutional use would occupy this site instead of it reverting back to a residential use. In addition, surface parking lots, especially in residential zones, is not the current policy direction the City is taking. The proposed parking lot is in an Historic District and in a highly visible location along a major "gateway" street to the City neither of which was felt to be compatible with the neighborhood nor advantageous for the City. Plus, concentrating the vehicular impact on one-parcel subjects adjacent property owners to infringement on use and enjoyment of their residences that zoning is intended to protect.

The Commission members voting in the minority are persuaded by the arguments of some of the citizens that the approval of the text amendment with its very limited applicability would result in a benefit to the neighborhood by reducing the impact of visitor parking and traffic, especially along Williams Street.

Commissioner Callistein wishes to add additional comments on his reasons for supporting the text amendment:

As one of the minority of the commissioners who voted in favor of the amendment, I would like to present my rationale, both philosophical and practical.

Philosophically, I disagree with the premise stated by staff and others that the purpose of grandfathering a property as a non-conforming use is simply a way of waiting for the non-conforming use to die a natural death. While this may be true in some cases, grandfathering is also a tool that is used to help the city support organizations that have spent years building and contributing to the community and have become part of Rockville's financial and cultural heritage. Pumphrey's Funeral Home has been serving the Rockville community for many years from this location, and will most likely continue to do so for years to come. I believe part of our responsibility for grandfathered properties like this is to help them find ways to adapt to the changing environment around them while still preserving their historical and operational integrity.

As a practical matter, my concerns are for the quality of life and safety for the immediate residents of the area, for the people who drive through the area, and for the people who visit the funeral home. Traffic in the area has grown, and will continue to grow, heavier. Williams Street has become a pass-through for people trying to avoid traffic congestion on Montgomery Avenue and Falls Road. Where once people had to cross a moderately busy road to get to Pumphrey's they now have to negotiate crossing a busy and backed-up thoroughfare, putting them at considerable risk. Williams Street frequently becomes filled and clogged, forcing people to have to back out into traffic to let other cars through. My personal belief is that a well-built, properly concealed parking lot would go a long way towards alleviating these problems without hurting the character of the neighborhood. I am also aware that there are other actions that could help address these issues like installing crosswalk lights, changing the traffic patterns onto Williams Street, putting in additional sidewalks, hiring people to direct traffic and pedestrians during the funeral home's busy times, and running shuttle buses to allow people to park somewhere safer. If the City does not see fit to grant the exception for the parking lot, and even if they do, I would encourage them, the management of Pumphrey's, and the residents of the area to work together to help preserve their quality of life while supporting an institution that has served this community faithfully for many years.

Therefore, on a motion by Commissioner Ostell, seconded by Commissioner Tyner, the Planning Commission recommends denial of text amendment application TXT2010-00228 with Commissioners Ostell, Tyner, and Hill voting in favor of the motion, and with Commissioners Pakulniewicz and Callistein voting against the motion, and with Commissioner Trahan absent, at its meeting on September 29, 2010.